

Case 1:14-cv-04785-JGK Document 6-3 Filed 09/22/14 Page 1 of 1

DUNNEGAN & SCILEPPI LLC
ATTORNEYS AT LAW
350 FIFTH AVENUE
NEW YORK, NEW YORK 10118

212-332-8300
212-332-8301 TELECOPIER

April 23, 2014

By Federal Express

DepositPhotos Inc.
110 E. Broward Blvd. Suite 1700
Fort Lauderdale, FL 33301

Re: Infringement of NJMG's Copyright

Ladies and Gentlemen:

We are attorneys for North Jersey Media Group Inc. ("NJMG"). We are writing because we understand that DepositPhotos Inc. ("DepositPhotos") is selling copies of images that infringe the copyright in NJMG's iconic photograph of the September 11, 2001 flag raising at the World Trade Center site ("WTC Flag Raising Photograph").

As you may know, NJMG is engaged in the business of news reporting. Its two daily publications, The Record and Herald News, have a daily circulation of approximately 151,000 and a Sunday circulation of approximately 175,000. In addition, NJMG publishes more than forty weekly community newspapers with a combined circulation of approximately 350,000. Its website, www.northjersey.com, has more than 11.5 million page views per month, and its other website, www.bergen.com, has approximately 750,000 page views per month. NJMG invests significant amounts of money and effort to create and publish compelling original content.

On September 11, 2001, an editor at NJMG assigned Thomas E. Franklin, a NJMG employee, to photograph the events of the day. Franklin thereafter captured the image of three firefighters raising the American flag at the ruins of the World Trade Center. NJMG published the WTC Flag Raising Photograph on September 12, 2001, and

DepositPhotos Inc.
April 23, 2014
Page 2

registered it with the United States Copyright Office on October 5, 2001, registration number VA0001014297.

The WTC Flag Raising Photograph has since become a symbol of American spirit in reaction to the tragic events that occurred on 9/11. NJMG recognizes the significance of its WTC Flag Raising Photograph, and accordingly licenses it for certain uses, including appropriate charitable and news related uses, as well as for certain commercial uses.

On February 28, 2002, NJMG granted the United States Postal Service a limited license to create a derivative work of the WTC Flag Raising Photograph on a United States postage stamp ("Stamp").

We understand that DepositPhotos is, without a license, selling images that infringe NJMG's copyrighted WTC Flag Raising Photograph. Specifically, DepositPhotos offers for sale and download prints and/or copies of at least (i) a photograph titled "UNITED STATES OF AMERICA - CIRCA 2002: A stamp printed in USA shows heroes Raising the Flag at Ground Zero, 2001, circa 2002 - Stock image" uploaded by user "neftali77" who appears to claim the copyright; and (ii) a photograph titled "Postage stamp printed in the USA, is dedicated to Heroes of the USA in 2001, depicts three firefighters raising the flag at Ground Zero, New York - Stock Editorial Photography" uploaded by user "S_Kohl" who appears to claim the copyright. These photographs are identical reproductions of the Stamp and infringe NJMG's WTC Flag Raising Copyright. Therefore, DepositPhotos is infringing NJMG's registered WTC Flag Raising Copyright.

Accordingly, we demand that DepositPhotos immediately (i) cease and desist advertising and/or selling images that infringe the WTC Flag Raising Copyright, (ii) confirm to us in writing that you have done so, and (iii) disclose each of the infringing images that you advertised and/or sold. We further demand that within 10 days of the date of this letter that DepositPhotos (iv) disclose the profits DepositPhotos has made from the infringements, (v) agree to make a settlement payment to NJMG in an agreed upon amount, and (vi) disclose to us the identities of the individuals or entities who uploaded the infringing images.

DepositPhotos Inc.
April 23, 2014
Page 3

We look forward to hearing from you.

Sincerely yours,



Richard Weiss

As you may know, I am a member of the American
Photography Association. I am currently working on a
project that involves the use of photography in the
field of forensic science. I am looking for a
photographer who is experienced in this field and
who is willing to travel to various locations.

As you may know, I am a member of the American
Photography Association. I am currently working on a
project that involves the use of photography in the
field of forensic science. I am looking for a
photographer who is experienced in this field and
who is willing to travel to various locations.

On September 11, 2001, an editor at the
American Photography Association contacted me
regarding a project that involved the use of
photography in the field of forensic science. I
am looking for a photographer who is experienced
in this field and who is willing to travel to
various locations.